

REMARKS

The Examiner has made an obviousness-type double patenting rejection of claims 24-27 as being non-patentable over claims 3-5 of U.S. Patent No. 6,379,710 (the '710 patent) and claims 1-3 of U.S. Patent No. 6,793,939 (the '939 patent). The Examiner contends that the "gelled" liver basement membrane compositions claimed in the present application are "one and the same" as the graft compositions claimed in claims 3-5 of the '710 patent and claims 1-3 of the '939 patent even though claims 3-5 of the '710 patent and claims 1-3 of the '939 patent "***do not recite the gelled limitation.***" The Examiner indicates that the gelled limitation of the present claims appears to be an inherent property of claims 1-3 of the '939 patent and claims 3-5 of the '710 patent. Applicant respectfully traverses the Examiner's rejection. Claims 24-27 of the present application are not obvious over claims 1-3 of the '939 patent and claims 3-5 of the '710 patent. The gelled limitation of the present claims is NOT an inherent property of claims 1-3 of the '939 patent and claims 3-5 of the '710 patent.

Claims 24-27 of the instant application are not obvious over the cited patent claims. Claims 3-5 of the '710 patent and claims 1-3 of the '939 patent are directed to methods for inducing the formation of endogenous tissue by implanting either liver basement membrane (claims 1 and 3 of the '939 patent and claims 3 and 5 of the '710 patent) or a fluidized liver basement membrane graft composition (claim 2 of the '939 patent and claim 4 of the '710 patent). Claims 24-27 of the instant application are directed to methods for inducing the formation of endogenous tissue by implanting a "***gelled***" graft composition.

The Examiner contends that the cited patent claims, while not reciting "gelled" compositions, inherently specify gelled compositions. ***This is not the case.*** The cited patent claims specify either intact liver basement membrane compositions or fluidized liver

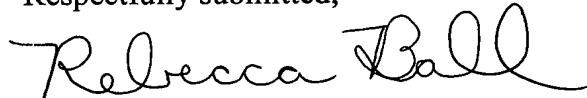
basement membrane compositions. Intact liver basement membrane is obviously not gelled. Also, the method for preparing a fluidized composition, comprises the steps of comminuting the tissue, then solubilizing the tissue by enzymatic digestion with a protease or other appropriate enzyme (page 4, line 21 to page 5, line 2 of the specification of the instant application).

In contrast, the graft compositions of the instant claims 24-27 are ***gelled*** compositions. The method for preparing a gelled composition, based on the text of the specification of the present application, comprises a further step (in addition to those described above for preparation of fluidized compositions) in preparation of gelled compositions. The further step is adjusting the pH of the fluidized tissue to form a gelled composition. For example, gels “can be prepared from the digest solutions by adjusting the pH of such solutions to about 6.0 to about 7.4” (page 11, lines 6-15 of the specification of the instant application). Therefore, the gelled compositions of claims 24-27 of the instant application are not “one and the same” as those claimed in claims 3-5 of the ‘710 patent or claims 1-3 of the ‘939 patent, and are not inherently anticipated by claims 3-5 of the ‘710 patent or claims 1-3 of the ‘939 patent. The subject matter of claims 24-27 of the present application is not at all obvious over the intact liver basement membrane compositions or fluidized liver basement membrane compositions of claims 3-5 of the ‘710 patent or claims 1-3 of the ‘939 patent.

CONCLUSION

The foregoing remarks are believed to fully respond to the Examiner's rejections. The claims are in condition for allowance. Applicants respectfully request allowance of the claims, and passage of the application to issuance.

Respectfully submitted,

A handwritten signature in black ink that reads "Rebecca Ball". The signature is written in a cursive, flowing style.

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